

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

219

CRM-M-44047-2021

Date of Decision: 10.08.2022

Jony

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sukesh Kumar Jindal, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana, assisted by SI Sandeep.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.321 dated 29.09.2020 at Police Station Rai, Sonipat, under Sections 376(2)(n), 323, 328, 506 IPC (Sections 384 & 201 IPC added later on).
2. The FIR was lodged at the instance of the prosecutrix aged about 32 years, wherein it has been alleged that previously she alongwith her husband was running a placement agency in Delhi, but on account of demise of her husband in 2014, she had been looking for some other employment. It has been alleged that the complainant knew the petitioner, as a girl from her village is married to him and that the said petitioner offered employment to the complainant and she started working for the petitioner and had been hiring people to work for the petitioner and used to maintain accounts as regards the salaries paid to the labourers. It is alleged that on 05.02.2020, the petitioner called the prosecutrix to his room and offered coffee and upon consuming the same, she fell asleep. When she woke up during night, she found herself as

well as the petitioner lying naked. The complainant, thus, alleged that she had been raped by the petitioner. It has been alleged that the petitioner had made a video and threatened her that if the prosecutrix disclosed about the incident to anyone, he will make the video viral. The complainant stated therein that on 02.03.2020, she left Bahalgarh and proceeded to Ranchi without informing the petitioner. It has further been alleged that she returned back to Bahalgarh on 03.09.2020. It was subsequently on 29.09.2020, the FIR was lodged by the prosecutrix.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the prosecutrix is a matured lady aged about 32 years and it remains unexplained as to why she waited for about 7 months before lodging the FIR in question. It has further been submitted that since the prosecutrix stands examined before the trial Court, therefore, there is no question of any intimidation at this stage and in these circumstances, the petitioner who has been behind bars since the last about 1 year & 10 months deserves the concession of bail. Learned counsel has also pointed out that even the complainant does not have clean antecedents and stands involved in two more cases i.e. FIR No.08/15 dated 31.01.2015 registered at Police Station Gumla (Ahtu), District Gumla, Jharkhand, under Sections 370/371/34 IPC; Sections 14 & 16 of the Bonded Labour Act and Sections 25 & 26 of the Interstate Migration Act as well as FIR No.38/15 dated 06.05.2015 registered at Police Station Gumla (Ahtu), District Gumla, Jharkhand, under Sections 368/365/467/370/34 IPC; Sections 14 & 16 of the Bonded Labour Act;

Sections 23 & 26 of the Juvenile Justice Act and Sections 25 & 26 of the Interstate Migration Act (Annexures P-6 & P-7 respectively).

4. Opposing the petition, learned State counsel has submitted that since there are specific and categoric allegations against the petitioner, which the prosecutrix has reiterated when she stepped into the witness-box, no case for grant of bail is made out. Learned State counsel has, however, not disputed the fact that the petitioner as on date has been behind bars since the last about 1 year & 10 months and that he is not involved in any other case. It has further been informed that as on date 8 PWs out of cited 19 PWs have been examined and that the prosecutrix already stand examined.
5. I have considered rival submissions addressed before this Court.
6. It is no doubt correct that specific allegations have been leveled in the FIR. However, this Court cannot lose sight of the fact that the petitioner has been behind bars since the last about 1 year & 10 months. Though the prosecutrix is a matured lady aged about 32 years, but the delay of about 7 months in lodging the FIR remains unexplained. The prosecutrix otherwise stands examined by the trial Court. The petitioner has a clean record and is not stated to be involved in any other case. Conclusion of trial is likely to take time as only 8 PWs out of cited 19 PWs have been examined till date. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his

furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.08.2022
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No